

FISCAL NOTE

Bill #: HB0450

Title: Revise state land management

Primary Sponsor: Jopek, M

Status: As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

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|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

TECHNICAL NOTES:

Department of Natural Resources and Conservation (DNRC)

1. Section 1 of HB 450 amends Section 77-1-202, MCA to provide a statutory directive to the State Board of Land Commissioners that land retention is preferred. This directive [proposed as Section 77-1-202(1)(c)] may conflict with the Land Board's direct constitutional authority under Article X, Section 4 to direct and control state trust lands. See, Montrust v. State, Cause No. ADV-97-134, 1st Mont. Judicial District. Ct. (April 1, 1998); Broadbent v. State of Montana, 1st Mont. Judicial. Distr. Ct.Cause No. BDV-2003-361 (July 1, 2004). On April 1, 1998, in Montrust v. State, Cause No. ADV-97-134, District Judge McCarter struck down a legislative prohibition upon the sale of state timberlands within Section 77-2-303, MCA, stating that: "The blanket restriction on sale of timberlands on school trust land contravenes the State's duty as trustee to make the trust financially productive. Therefore, this section is unconstitutional as applied to school trust lands."
2. Section 2 of HB 450 proposes to limit the Land Board's discretion and submit State trust lands to local zoning processes, and could be unconstitutional as applied if the zoning substantially interferes with the purpose of the trust to provide revenue for the beneficiary. See, Montanans for the Responsible Use of the School Trust v. Montana, ex rel. Board of Land Commissioners, No. 98- 535, 1999 MT 263 (1999) (School trust property must be managed for the trust beneficiary alone, not for the benefit of the trustee or any third party.) This directive may also conflict with the Land Board's direct constitutional authority under Article X, Section 4 to direct and control state trust lands.